

Court's ruling in the Cuomo case by clearly stating the role State AGs may play in enforcing certain laws against national banks. Last, it also preserves a role for State AGs to ensure that consumers are never again put at risk because Federal regulators are asleep at the switch.

I urge my colleagues to support the Carper-Bayh-Warner-Johnson amendment. This amendment, and the underlying bill creating a new consumer agency, will set strong national standards for consumers, and improve our abilities to detect problems and vastly improve consumer protection.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I will be brief. I commend both the Senator from Delaware and the Senator from Tennessee for their hard work in this area. This is very arcane. It is difficult, but it is very important. I was hoping we could bake a whole loaf of bread, not a half. One-half is better than nothing—but a whole loaf. What we are doing thus far is Main Street. We are not worried about Wall Street. Wall Street will take care of themselves, as Senator CORKER and others have said on this floor. They always have, always will. But it is Main Street, the smaller banks in our communities, in our towns all across the country. If we could, in the wisdom of the chairman of the committee, if we could move to a whole loaf of bread, that would be commendable. I feel like we are not going to do a whole loaf here today because we don't have the votes. But gosh, a whole loaf is always better than half.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Connecticut has 9 minutes 50 seconds.

Mr. DODD. I will take 5 minutes, if the Chair will advise me.

Mr. President, this is striking a balance. If I were king for a day, I might write a different approach than either the Corker or the Carper amendments. But I am 1 of 100 people in this Chamber. Our goal is to try to find common ground on a very difficult issue. This is a complicated question. It isn't just about Main Street and Wall Street; it is about how we enforce laws, how to make sure we don't overreach and create unnecessary duplication and raise costs. We are trying to balance what should not be necessarily competing goals. One is to have stronger consumer protections. I hope I don't have to make that case again. What got us into this mess to begin with was the lack of consumer protection. It was bad mortgages, no documentation, luring people into deals they could never afford, people making decisions to jump into deals they couldn't handle.

For all those reasons, this problem mushroomed out of a mortgage prob-

lem into a large, now almost global, problem we are confronting. So, clearly, as to consumer protection, we are doing that in this bill. For the first time in the history of our country, we will now have an agency exclusively dedicated to protecting the average consumer in this country when it comes to financial services. We have it for products you buy. We have it for the food you eat. But Lord forbid you end up in potential ruin because of a financial product. Where do you go? There is no recall. There is no place to get that financial product recalled if you are running into problems. So we do that in this bill.

Let me be the first to admit there are people who are vehemently opposed to have anything like a Consumer Financial Protection Bureau anywhere in our government at all, and I know that. My colleagues know that. I understand, from time to time, attempts to try and undermine this in whatever way you can has been a part of this.

The second goal is the one my colleague from Delaware has mentioned: preserving our national banking system, which has been around for 150 years. It is clearly in our interest to do that. So how do we strike this in a way that strikes that balance?

The Carper amendment preserves the States' attorneys general role in protecting their citizens from abusive practices. That is about as Main Street as you can get. As I said, the alternative is to have someone from Washington, I suppose, being able to show up to protect those interests. Why not preserve the right of an attorney general at the State level to protect those interests?

But it also makes clear—the Carper amendment does—that the Office of the Comptroller of the Currency can preempt a State consumer law, while preserving our national banking system. So it strikes that balance, which is so critical.

The Carper amendment does three things: It preserves the State's role in enforcing the Federal consumer financial laws. That is No. 1. Secondly, it returns to the Office of the Comptroller of the Currency the preemption of State consumer financial laws to the 1996 Barnett standard, which is the Supreme Court case, and provides for transparent determination procedures for preemption decisions. Thirdly, the Carper amendment makes clear that the States' attorneys general have the authority to enforce certain laws against national banks in their home States.

That is the balance the Carper amendment provides.

The Corker amendment—if we adopted just the Corker amendment—does two things. One, it completely eliminates the State attorney general from enforcement of the Consumer Financial Protection Act. It eliminates it altogether. I do not think you want that. That does not make sense to me. That is where you get confusion. Secondly,

it would confuse the Federal preemption standard under the Barnett case that the OCC should apply when preempting State consumer laws.

We are trying to get clarity, and we get clarity with the Carper amendment. That is what we are looking for: National banking gets preserved. Yet the attorneys general can enforce the laws rather than relying on something at the national level to do the job.

So I urge my colleagues—and I say this respectfully because BOB CORKER and I have worked together on a lot of issues over the last number of months—on this one, I respectfully suggest it goes too far. That is why I urge Senator CARPER, who has a strong interest in this subject matter, to sit down and see if we could fashion a compromise that would maintain the balance of allowing State AGs to do their jobs when it comes to enforcing the rules under our Consumer Financial Protection Bureau, while preserving the national banking system, where the OCC has the right to preempt. That is what we have done with the Carper amendment. That is the balance that gets struck here. I say respectfully, the adoption of the Corker amendment throws that balance off whack, and that is what I think would be a step backward when it comes to this provision.

So for those reasons, I would urge a “no” vote on the Corker amendment and a “yes” vote on the Carper amendment, which I think strengthens this bill overall.

With that, I see my colleague from Virginia, who may want to be heard on this amendment as well.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I just wish to briefly add to the discussion and thank both the chairman and Senator CARPER and my good friend Senator CORKER as well. We are breaking new ground. We are creating a new national Consumer Financial Protection Bureau.

I share, I think, actually the goals of both Senator CORKER and Senator CARPER that the bureau ought to have a chance to enforce its rules on an orderly national basis. I know my good friend, Senator CORKER, has a slightly different variation, but I think Senator CARPER's amendment has struck that right balance: ensuring there are opportunities for Federal preemption but, at the same time, recognizing that the balance of the attorneys general role ought to be to focus on the regulations—regulations that it will have had an appropriate period to have been commented on by industry, to have gone through an orderly process, rather than simply what the initial draft would have had, which would have allowed the attorneys general to actually focus on the statute itself, that might have allowed them to run a little more without as many restraints.

So I realize this is a new area. We are trying to strike a balance. I agree with